

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 1:22-cv-10767-DPW

JAMES JULSONNET and DIANE JULSONNET
Plaintiffs,

v.

TOPHILLS, INC., *et al.*
Defendants.

DEFENDANTS' MOTION IN LIMINE No. 2
TO PRECLUDE EVIDENCE OF NONRECOVERABLE DAMAGES

Defendants moves this Honorable Court to preclude the Plaintiffs from making any references or argument at trial that their damages related to the actual moving of their goods exceeded the limitation stated in the Plaintiffs' contract with Febex d/b/a Interstate Moving and Storage. Specifically, the contract indicates that, unless the Plaintiffs purchased additional insurance (which they did not), the Plaintiffs cannot recover more than \$0.60 per pound for lost of damaged items and any damage to the residence resulting from the move was also waived.

See e.g., Rational Software Corp. v. Sterling Corp., 393 F.3d 276, 277-279 (2005).

The Plaintiffs seeming intend to present evidence that exceed the \$0.60 per pound limitation and evidence of damage to their residence, which is waived by their agreement. Given the same, this evidence is not probative and will not assist the jury in its decision.

WHEREFORE, Defendants request that this Honorable Court grant this Motion in Limine and preclude Plaintiffs from referring to suggesting that they suffered damages that exceed the allowable damages within their agreement with Febex d/b/a Interstate Moving and Storage.

Respectfully submitted,

Dated: March 18, 2024

The Defendants,
By his Attorneys,

/s/ David Summer

Alan D. Meyerson (BBO #682515)
David B. Summer (BBO #634514)
100 State Street, Suite 900
Boston, MA 02109
(617) 444-9525
(617) 695-0050
alan@alandavidmeyerson.com
david@summerlaw.com

Certificate Pursuant to Local Rule 7.1(a)(2) and 16.5(c)

I, David Summer, hereby certify that on March 18, 2024 I attempted to confer in good faith with counsel for Plaintiffs via telephone to narrow or resolve the issue(s) raised by this motion prior to the filing of this motion. Plaintiffs' counsel indicated via telephone on that they do not assent to Defendants filing this motion.

/s/ David Summer

David Summer

Certificate of Service

I, David Summer, certify that, to the best of my knowledge, this document, filed through the Court's ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on March 18, 2024.

/s/ David Summer

David Summer